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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,113	07/11/2001	Katsuhiko Mochizuki	1232-01	7939

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EXAMINER	
BUTLER, PATRICK NEAL	
ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
05/03/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pto.phil@dlapiper.com

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/889,113	MOCHIZUKI ET AL.	
	Examiner	Art Unit	
	Patrick Butler	1791	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Christina Johnson/
Supervisory Patent Examiner, Art Unit 1791

Continuation of 3. NOTE: The new issues that require further consideration and/or search and that do not place the application in better form for appeal are the new limitation of an interlacing treatment nozzle that controls tension gradient in lines 18 and 19 of Claim 15.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 13 April 2010 have been fully considered, but they are not persuasive. Applicant argues with respect to the 35 U.S.C. § 103(a) rejections that the proposed amendments of an interlacing treatment nozzle controlling tension gradient is not taught by the references as applied such as Fujimoto and Rowan, and Applicant further argues Fujimoto's interlacing treatment is not conducted to be a yarn cooling device or a tension gradient controller. This is not persuasive because the Arguments pertain to the claims as amended: the new issues. The Examiner's response to the previously rejected claims may be found in the final rejection mailed 22 December 2009. Moreover, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., interlacing with a yarn cooling device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant further argues with respect to the 35 U.S.C. § 103(a) rejections that Fujimoto does not teach a specific CF value. This is not persuasive because Toshio is relied upon for teach a specific CF value as described on page 5 of the Office Action mailed 22 December 2009. Applicant further argues with respect to the 35 U.S.C. § 103(a) rejections that Fujimoto does not teach the use of a heated roll surface roughness of 1.5-8 S. This is not persuasive because the claimed heated roll surface roughness is taught by Rowan's teaching of roll surface roughness to be a result-effective variable as described on pages 3 and 4 of the Office Action mailed 22 December 2009. Applicant further argues with respect to the 35 U.S.C. § 103(a) rejections that Fujimoto does not teach a relaxation factor of 10-20%. This is not persuasive because Fujimoto teaches the yarn is relaxed at a ratio of 0.8-0.999, with the ratio being the winding speed/peripheral speed of the second roll (at a relaxation factor of 10-20%) [0040]. Applicant further argues with respect to the 35 U.S.C. § 103(a) rejections that Fujimoto does not teach a spinning rate of at least 2,000 m/min. This is not persuasive because Fujimoto teaches that the multifilament is wound around a first roll at a speed of 300-3,500 m/min (at a spinning rate of at least 2,000 m/min.) ([0036] and [0037]). Applicant further argues with respect to the 35 U.S.C. § 103(a) rejections that Applicant's yarns are employed in clothing. Thus, Rowan's yarns would have different properties. This is not persuasive because, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., forming the yarn into clothing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Moreover, the examiner recognizes that all of the claimed effects and physical properties are not positively stated by the reference(s). Note however that the references teach all of the claimed ingredients, process steps and process conditions and thus, the claimed effects and physical properties would necessarily be achieved by carrying out the disclosed process. If it is applicants' position that this would not be the case: (1) evidence would need to be presented to support applicants' position; and (2) it would be the examiner's position that the application contains inadequate disclosure in that there is no teaching as to how to obtain the claimed properties and effects by carrying out only these steps. Applicant further argues with respect to the 35 U.S.C. § 103(a) rejections that Rowan draws twice, and Applicant only needs to employ drawing once. This is not persuasive because, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., no second drawing step) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant further argues with respect to the 35 U.S.C. § 103(a) rejections that Toshio's teaching of an interlacing treatment to produce a yarn having a CF value of 10-100 fails to teach PTT multifilament. Thus, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to vary conditions according to Toshio in a PTT yarn process. This is not persuasive because, since Toshio is relied upon for being directed to multifilament thermoplastic synthetic fiber (see abstract), it is unclear how successfully manufacturing a sizeless, twistless fabric (see Toshio, abstract) in Fujimoto would not be expected. Toshio does not include Applicant's assumed limitations of excluding PTT. Moreover, motivation to combine Fujimoto and Toshio was presented but not addressed by applicant's arguments.